Report of J. Story of his charge at the Trial -

Whittemore
v
Cutter -

May Term 1813. at Boston -

I directed the Jury -

1. That the making of a machine like the Plfs for the purpose and with a design to use it for profit, was sufficient to maintain the action under the acts, although no actual use were proved - and that the Plfs under such circumstances were entitled to a reasonable compensation for the actual damage sustained by them - and that in estimating such damages, the necessary expenses of vindicating the rights of the Plfs such as fees to counsel, expenses of witnesses, &c. were not the taxable costs of the Plfs, ought to be considered as part of the actual damage sustained by the Plfs - and that in estimating such extraordinary expenses, the Jury ought to make a liberal allowance - That if upon the making, the Jury found a user of the machine they should give as actual damage to the Plfs the fair value of the use which such machine would be to the Plfs or might be sold for by the Plfs during the time of the user -

2. That the Letters patent in the case before the Court were for an improvement in manufacturing cards - and not for the whole machine described in the schedule annexed to the Letters patent - The object of that Specification was to show the manner of operation of the improvement - & not to secure to the patentee the whole machine thus described - Best [illegible]

~~the Academia could not substantially exist before~~ — If however the letters patent were for the whole machine, and the invention were of an improvement only, the action would not be sustained - because the letters patent would be too broad —

3. That although the oath taken by the Pltf Thos Whittemore previous to issuing of the letters patent was not in exact conformity with the 3 sect. of the act. of 21 Feby 1793. ch. 11., yet it formed no valid objection to the recovery in the action — the oath being merely directory to the Secretary of State and an official prerequisite to the issuing of the letters patent — but not matter of which a court of law could take notice incidentally to defeat a suit of this nature -

4. — That if the Jury should be satisfied that the specification & drawings filed by the patentee in the office of the Secretary of State were not made in such full clear & exact terms & manner as to distinguish the same from all other things before known & to enable any person skilled in the art or science of which it is a branch or with which it is most nearly connected to make & use the same, this would not be sufficient to defeat the right of the Pltf to recover, in this action, unless the Jury were also satisfied that the specification & drawings were thus materially defective & obscure by design and the concealment made for the purpose of deceiving the public — In this respect our law differs from the law of England — That if the specification & drawings were thus materially defective it afforded a presumption of a designed concealment which the jury were to judge of — That in deciding as to the materiality of the deficiencies in the specification such specification & drawings, evidence to disprove the materiality studying by examining it, a man of ordinary genius might be able to construct the machine by inventing parts - and by trying experiments - The object of the law was to prevent the expenditure of time & money in trying experiments & to obtain such exact directions if properly followed by a man of reasonable skill in the

particular branch of the art a reason might to construct the machine — and if from the deficiencies it was impracticable for such a man to construct it, the deficiencies were material —

4. That the Plfs were competent to maintain this suit in this Court, although only one of the Plfs is the original inventor and patentee — and the other Plf is but an assignee of a moiety of the ~~patents~~ title & interest in the patented invention — That the assignment of a moiety of the title & interest of a patentee might well be ~~of~~ made under the 4th. of the act. 21 Jeby. 1793. ch. 11. ; and to maintain an action under that act & the 3 section of the act of 17 April 1800 ch. 25. ~~[illegible]~~ it would be sufficient if the ~~Plf~~ action were brought by all the persons who held the whole title & interest of the patented invention, at the time of the alleged infringement thereof in whatsoever manner the title thereto might originally have accrued to them or any of them — or in whatsoever ~~manner~~, ~~undivided~~ shares or moieties the same might be held among themselves —

Whitemore
&
Watkins
3
3

May T 1815

United States of America
District of Massachusetts ss } Circuit Court of the United States
in & for the said District
May Term A. D. 1813

Amos Whittemore & Wm Whittemore Jr vs. Wm F. Cutter

And now the said Wm F. Cutter after verdict &
before judgement rendered thereon against him in this cause, comes
& moves the court now here that judgment in this cause may be
arrested & that no judgmt. may be rendered upon the said verdict
for the Pltfs, for the reasons & causes following, to wit:

1st That the said Wm Whittemore Junr as the assignee of the said
Amos Whittemore, as in the Pltfs writ & declaration is alledged, cannot
as co-plaintiff, according to law maintain this action against the
Deft.

2nd That the Pltfs have not, in their writ or declaration, alledged
that the patent mentioned therein was assigned to the said Wm
Whittemore Junr according to law.

3d That the assignment mentioned & alledged in the Pltfs —
declaration of the Patent therein mentioned or one half thereof is not
an assignment according to the statute in such case made &
provided.

4th That the verdict rendered in this cause does not find the
Deft guilty of the making, devising & using the machine in the
Pltfs writ & declaration mentioned as is therein alledged against him.

5th That the alledged offence or wrong & injury with which the Deft is charged by the Plfs in their writ & declaration to which the Deft plead not guilty & upon which plea issue was joined is not by the verdict found to be true or to have been committed

6th That the making the machine set forth in the Plfs declaration is not an offence according to the intent & meaning of the Statute upon which this action is founded.

Whittemore & al
v.
Cutter

May term 1813 at Boston

I directed the Jury

1st That the making of a machine like the Plfs fit for use & with a design to use it for profit, was an infringement of the Plfs patent ~~was~~ sufficient to maintain the action under the acts, altho' no actual use were proved — & that the Plfs under such circumstances were entitled to treble the actual damages sustained by them — & that in estimating such damages the Plfs such as fees to counsel, expenses of vindicating the right of ~~two~~ the Plfs expenses of witnesses &c beyond the taxable costs of the Plfs, ought to be considered as part of the actual damage sustained by the Plfs & that in estimating such extraordinary expenses, the Jury ought to make a liberal allowance. That if, besides the making, the Jury found a user of the machine, they should give, as actual damage to the Plfs, the further value of the use which such machine would be to the Plfs or might be sold for by the Plfs, during the time of the user.

2nd That the Letters patent, in the case before the Court, were for an improvement in manufacturing cards & not for the whole machine described in the Schedule annexed to the Letters Patent — The object of that Specification was to show the manner of operation of the improvement & not to secure to the Patentee the whole machine thus described — If however the

Letters patent were for the whole machine & the invention were of an improvement only, the action would not be sustained because the letters patent would be too broad.

3d That altho' the oath taken by the Plf Amos Whittemore previous to issuing of the Letters Patent, was not in exact conformity with the 3d Section of the act of 21 Feby 1793. ch. 11 yet it formed no valid objection to the recovery in the action at Law as to the oath being merely directory to the Secty of State & an official prerequisite to the issuing of the Letters patent; but not matter of which a Court of Law could take notice incidentally to defeat a suit of this nature.

4th That if the Jury should be satisfied that the specification & drawings filed by the Patentee, in the office of the Secty of State, were not made in such full, clear & exact terms & manner as to distinguish the same from all other things before known & to enable any person skilled in the art or science of which it is a branch or with which it is most nearly connected to make & use the same, this would not be sufficient to defeat the Plfs right to recover in this action, unless the Jury were also satisfied that the specification & drawings were thus materially defective & obscure by design, & the concealment made for the purpose of deceiving the public — In this respect our Law differed from the Law of England — That if the specifications & drawings were thus materially defective, it afforded a presumption

of a designed concealment which the Jury were to judge of. That in deciding as to the materiality of the deficiencies in the specification & drawings, it was not sufficient evidence to disprove the materiality that by studiously examining such specification & drawing, a man of extraordinary genius might be able to construct the machine by inventing parts & by trying experiments. The object of the Law was to prevent the expenditure of time & money in trying experiments & to obtain such exact directions that if properly followed a man of reasonable skill in the particular branch of the art or science, might construct the machine. & if from the deficiencies, it was impracticable for such a man to construct it, the deficiencies were material.

5th That the Plfs were competent to maintain this suit in this Court altho' one of the Plfs only is the original inventor & patentee & the other Plf is but an assignee of a moiety of the title & interest in the Patented invention. That the assignmt. of a moiety of the title & interest of a patent might well be made under the 4 S. of the act 21 Feby 1793 ch. 11. & to maintain an action under that act & the 3 Section of the act 17 Apl. 1800 ch 25. it would be sufficient if the action were brought by all the persons who held the Whole title & interest of the Patented invention at the time of the alledged infringemt. thereof, in whatsoever manner the title thereto might originally have accrued to them or any of them - or in whatsoever undivided shares or moieties the same might be held among themselves.

Exd.

Amos Whittemore & al
vs Wm F. Cutler

Points in arrest of Judgment.

1st That Wm Whittemore Jr, a joint owner of the patent, cannot join in the action

2nd That the making the machine, as alledged in the declaration & found by the Jury, is not an offense under the statute.

Point for a new trial —

1st No action could be sustained without actual damage sustained by the Plfs before action brought.

2nd Jury cannot give damages, where the Plfs have not proved they have sustained actual damages, for the purpose of remunerating them for expenses incurred in vindicating their right or to enable them to support their action.

3d Jury cannot give damages to cover costs.

4th The Patent is for an entire machine & not for an improvement upon a machine, & is broader than the invention.

5th It must specifically appear by the Patent for what it is & it cannot be explained by witnesses.

6th That the Plfs cannot recover if the specification is not such as is required by the 3d sec of the act of 1793.

7th That the oath is material & if it appears on trial that the

patentee did not swear that he was the inventor of the thing patented, he cannot recover.

3 That the verdict is contrary to & not supported by evidence

9 That new and important testimony has been discovered

Motion for a New Trial & in Arrest

Motion in Arrest of Judgment & for new Trial.

Argued. Thurs. 29. Oct. 1813

C. P. Pearson for plaintiff in Error

New Trial argued on the ground of misdirection and misreception. and 2. relation to the Construction of the Statute. by Pearson & Cox

Motion for an Injunction and Account for Profits

Pearsons

The United States of America

To all to whom these Letters patent shall come:-

Whereas Amos Whittemore a citizen of the state of Massachusetts in the United States, hath alledged that he has invented a new & useful improvement in manufacturing Cards

which improvement has not been known or used before his application; has made oath that he does verily believe that he is the true inventor or discoverer of the said improvement;

has paid into the treasury of the U. S. the sum of thirty dollars, delivered a rec.t for the same & presented a petition to the Secty of State signifying a desire of obtaining an exclusive property in the said improvement, & praying that a Patent may be granted for that purpose: These are therefore to grant to the said Amos Whittemore, his heirs administrators or assigns, for the term of fourteen years from the second day of the twelfth month of June the full & exclusive right & liberty of making, constructing, using & vending to others to be used the said improvement,

a description whereof is given in the words of the said

Amos Whittemore himself in the schedule hereunto annexed & is made a part of these presents.

In testimony whereof I have caused these letters to be made Patent & the Seal of the U. S. is hereunto affixed

L S

Given under my hand at the City of ~~Philadelphia~~ the 3d day of June in the year of our Lord one thousand seven hundred & ninety seven & of the independence of the U. S. of America the Twenty first

~~By the President~~

John Adams

By the President

Timothy Pickering

Secty of State

City of ~~Washington~~ Philadelphia — to wit

I do hereby certify that the foregoing Letters patent were delivered to me on the third day of June in the year of our Lord 1797 to be examined; that I have examined the same & find

To the Hon. Timothy Pickering Esq.r Secretary of State

The petition of Amos Whittemore of Dover, N. H.

Respectfully ~~sheweth~~ says,

That he has by laborious application & study invented a Machine not known or used before for improving & facilitating the manufacture of Cotton & wool Cards of all kinds, in which economy is combined with simplicity not exceeded any where that he knows. This Machine is described generally in a schedule of specification which accompanies this petition. Your petitioner promises that as soon as the nature of it will admit, to deposit a full & perfect model of this Machine in your office. He therefore prays that Letters patent may be granted to him for the exclusive right of using & vending the same as is by Law provided.

Amos Whittemore
by his attorney
Wm Whittemore

Phila May 12 1797.

Copy of the general specification annexed to the Patent:-

The Schedule referred to in these Letters patent & making part of the same, containing a description in the words of the said Amos Whittemore himself, of an improvement in manufacturing Cards.

A general specification of a Machine for manufacturing sheet cards, suitable for wool & cotton cards, fitting jacks hatters cards, clothiers jacks & cards of every kind size or denomination. This machine is put in motion &c &c &c

(Here the whole Machine is generally described)

Signed Amos Whittemore

I swear that I do verily believe that I am the true Inventor or Improver of the Machine above specified

Signed Amos Whittemore

Suffolk ss. Boston Aug. 28th 1797. Then the above named Amos Whittemore personally appeared & made oath that he verily believes he is the true Inventor or improver of the Machine above specified, before me

Thos. Edwards Justice of the Peace

The witnesses present at signing
Nath. Abraham
Thos. Edwards

Chap. CII - Vol IX - Page 287

An Act to extend to Amos Whittemore & Wm Whittemore the patent right to a machine for manufacturing Cotton & Wool cards

Be it enacted by the Senate & house of Representatives of the U. S. of America in Congress assembled that all the privileges & benefits granted to Amos Whittemore of the State of Massachusetts in consideration of a machine invented by him for the manufacture of Cotton & wool cards within the U. S. by ... & bearing date the 5th day of June 1797 be & the same are hereby extended to Amos Whittemore & Wm Whittemore Jr as joint proprietors of the s.d machine for & during the term of 14 years to commence on the 5th day of June in the year of our Lord 1811 any thing in the act entitled "An act to promote the progress of useful arts & to repeal the act — heretofore made for that purpose" to the contrary notwithstanding

March 3. 1809

Approved

Th: Jefferson

J B Varnum

Speaker of the house of Representatives

Jn Milledge

President of the Senate pro tempore

them conformable to Law. And I do hereby return the same to the Secty of State, within fifteen days from the date aforesaid, to wit on this fifth day of June in the year aforesaid.

Charles Lee

Attorney General ~~of the U.S.~~

The Schedule referred to in the ... patent & making a part of the same, containing a description in the words of the said Amos Whittemore himself of an improvemt. in manufacturing Cards:

A general specification of a Machine for manufacturing sheet Cards, suitable for wool or cotton Cards, fitters cards, clothiers jacks & cards of every kind size or denomination. This machine is put in motion & the (here follows a general description of the machine)

To all people to whom these presents shall come

Amos Whittemore of Boston in the County of Suffolk & Commonwealth of Massachusetts. Card maker Sends Greeting Whereas the said Amos Whittemore has invented a new & useful improvement or machine for manufacturing Cards & upon a petition presented by the said Amos to the Secty of State of the U. S. of America, representing the same & praying that a patent be granted therefor, the said Secretary of State did according to Law in such cases provided, cause Letters patent to be made out in the name of the U. S. bearing date the fifth day of June A. D. 1797 & of the Independence of the U. S. the twenty first Signed by the President of the said U. S. & having the Seal of the said States affixed thereto Granting according to Law to the said Amos his heirs, Executors, administrators & assigns for the term of 14 years from the 2nd day of June last aforesaid the full & exclusive right & liberty of making constructing, using & vending to others to be used the said improvement or machine a written description whereof is annexed to & made a part of the said Letters patent (& a correct copy of which is also annexed to these presents) as in & by the said Letters patent, recorded in the office of the Secretary of State aforesaid may fully appear Now therefore know ye that for & in consideration of five hundred

dollars in hand paid by Wm Whittemore Jr. of Boston aforesaid Cardmaker, the receipt whereof is hereby acknowledged, the said amos Whittemore doth hereby bargain sell & assign over unto the sd Wm Whittemore his heirs Executors, administrators & assigns one full half part or moiety of sd improvement or machine, with all additions or improvements of the same made or to be made by either of the parties, & one half part of the patent right or other title & interest in & unto the same of him the said amos; with one half of all priviledges profits & advantages of whatsoever nature made or to be made by any ways or means from the using or vending the same or from any patent already obtained or to be obtained for the same in any part of the world

To have & to hold the hereby assigned premises premisses with all the priviledges & benefits to the same belonging to him the said William his heirs, Executors, administrators & assigns in as ample & beneficial a manner & for the same Term of time to all intents & purposes as the said Amos hath or legally may have & hold the same either as inventor thereof or by virtue of said Letters patent therefor. And said amos doth covenant to & with the sd Wm his heirs Executors, administrators & assigns that he the sd amos his Executors & administrators, shall & will do & execute or cause or procure to be done & executed all & every act & acts matter & thing for the better & more perfect assigning & assuring of his sd one half of sd machine & the Patent right & other title & interest therein with all the priviledges thereof as shall be requisite

or advised by council learned in the Law

In Witness whereof I the sd. amos Whittemore have hereunto signed my hand & affixed my seal this 5th day of July A. D. 1797

Amos Whittemore (L.S.)

Signed, Sealed & delivered in presence of
Saml Watson
Eber Lane

Suffolk June 14 1798 then Amos Whittemore acknowledged the foregoing instrument by him subscribed to be his free act & deed before me

Joseph Greenleaf Justice of the peace

District of Massachusetts ss: Circuit Court of the U. States
for the said District
May Term A.D. 1813.

Amos Whittemore and William Whittemore Jun^r vs
William F. Cutter.

I William F. Cutter defendant in this suit on oath declare and say that I can prove by the testimony of Abel Stowell of Worcester in the said District and of Eleazer Smith of Walpole in the said District that the said Eleazer Smith is the true and sole inventor of the improvement in the manufacture of cards for which the said Amos Whittemore obtained the patent upon which this action is founded and that the improvement for which the said patent was obtained was not the true and sole invention of the said Amos Whittemore but was suggested to him the said Amos Whittemore by the said Eleazer Smith and I do further on oath say that the above evidence has come to my knowledge since the trial of this cause and that it was not in my power to have obtained the said evidence upon the said trial

W F Cutter

May District 22 May 1813
Sworn to before me Wm S Shaw Clk

William F. Cutler's
Affidavit

May 1810	Moses Whiting	2 days	travell'd	83 / 83	—	16 Miles
Jon.a Hale	Attend.t	2 days	Travell from Exeter	50 / 50	—	100 Miles
Calvin Winch	"	1 day	— "	38 / 38		76 —
June 1813.						
Caleb Cole	"	25 days	from Newyork	300 / 300	—	600 —
Moses Whiting	"	5 days	—	300	—	12 —
Amos Whittemore	"	3 days	"			
Calvin Morrison	"	3 days				
Leo Calvin	— "	1 day				
Jonas Prentiss	— "	3 days	— "		8 Miles —	8
Josh.a Avery	— "	2 days	—	73	—	14
Zelina Eastman	"	4 days	—			10 —
October 1813				300 / 300	—	600 —
Caleb Cole	— "	27 days	Travell.d			
Moses Whiting	"	4 days				
John Dwight	"	4 days				
Angier Whiting	"	2 days				
Calvin Morrison	"	7 days				
Josh.a Avery	— "	3 "	Travell.d			20 —
Amos Whittemore Jr	"	3 "	"			20 —
Sam.l Cutter	— "	5 "	—			
Geo. Calvin	— "	3 "	—			
Sam.l Cutter Jr	"	5 "	—			
Zelina Eastman	"	5 days	Travell.d			10 —
						124,96
	179 days @ 1.25		— 119			
			29.75			94,80
			148,75			

79
N 25
8 5
98,75

Witnesses

United States of America
District of Massachusetts ss.

Circuit Court of the U. States for the said District

May Term A. 1813.

Amos Whittemore and William Whittemore Jun
vs. William F. Cutter

And now the said William F. Cutter after verdict and before judgment rendered thereon against him in this cause comes and moves the Court now here that the said verdict may be set aside and a new trial awarded in this cause for the causes and reasons following to wit:

1. Because the Court misdirected the Jury in stating to them that the mere making of a machine fit for use without proof of actual damage sustained by the Plffs in consequence thereof was an infringement of the Plffs patent and sufficient in Law to support this action.

2. Because the Court misdirected the Jury in stating to them that the Letters Patent offered by the Plffs in evidence was not a patent for the whole machine described and specified in the schedule making a part of the said Letters Patent but for an improvement upon the said machine and that the whole machine was described in the said schedule to display wherein the said improvement consisted and what was the said improved part and not for securing to the Patentee a patent for the whole machine so described

3. Because the Court misdirected the Jury in stating to them that the ~~Letters Patent aforesaid~~ "to enable persons to practice ~~their progress of~~ improvement in the manufacturing of cards invented by the said Amos Whittemore ~~in stocking the teeth of the card into the leather by machinery and complete~~ certain parts of the same was sufficiently specified in the said patent and schedule

(so as to distinguish the said improvement from the machines before known for the cutting stapling and grooving the heels and picking the holes in the Leather and so as to subject it to specify wherein the said invention consisted and to prevent the said Patent from being more extensive than the said Amos Whittemore actual invention or discovery.

4 Because the Court misdirected the Jury in stating to them that the 3d section of the act intituled "An act to promote the progress of useful arts and to repeal the acts heretofore made for that purpose" passed Feb. 21. 1793 is directory merely to the Secretary of State and the Attorney General of the U. States in respect to the issuing of letters patent and that the provisions therein were not the subjects of judicial inquiry and cognizance in this cause or causes of this nature so that although the oath required by the said section might not have been taken by the said Amos Whittemore it would not avail the Defendant.

5 Because the Court misdirected the Jury in stating to them that if they should be satisfied that the specification and drawings filed by the said Amos Whittemore in the office of the Secretary of State were not sufficiently full clear and exact to distinguish his said invention from all other things before known and to enable any person skilled in the art or science of which it is a branch a with which it is most nearly connected to make and use the same that this would not be sufficient to defeat the Plaintiffs right to recover in this action unless the Jury were also satisfied that the specification was thus defective or obscure by reason of some concealment or addition which must fairly appear to have been made for the purpose of deceiving the public.

6th Because the Court misdirected the Jury in stating to them that if they found the Defendant guilty only of making the said machine so patented that in ascertaining the

actual damage sustained by the Plff's in consequence thereof they would have a right to take into consideration the expences incurred by the Plaintiffs in consequence of this suit and to give them a sum which would liberally remunerate them for their expenses of counsel witnesses and papers which sum was to be trebled

7 Because the verdict rendered in this cause is against or is not supported by evidence for that no evidence was offered to the Jury of any actual damage sustained by the Plaintiffs previous to the commencement of this action by reason of the making the said machine as found by the Jury and therefore the verdict ought to have been if for any for nominal damages.

8th Because the said William F. Cutter since the commencement of the trial of this cause has discovered new and important testimony which would have been sufficient to defeat the Plff's right to recover against him the Defendant as appears by the affidavit of the said William F. Cutter and which he could not procure upon the trial aforesaid

By John Putnam Jun
his Attorney

Motion for a
New Trial

Filed in Court this
22 May 1813 de bene
esse one O'clock
W S Shaw Clk

Notification of the special matter, intended to be given in evidence, under the general issue, pleaded by the defendants, in the action by Amos Whittemore & William Whittemore Jr. vs. against William Francis Cutter defendant, for an alledged violation of a Patent-right to a Machine for manufacturing Cotton & wool Cards, brought to the Circuit Court of the United States, for the first Circuit, next to be holden at Boston, within & for the district of Massachusetts, on the first day of June A. D 1810 according to the form of the Statute of said United States.

Firstly that the specification or description of the Machine filed in the office of the Secretary of State of the said United States, by Amos Whittemore, to whom said Patent was granted, on the issuing thereof, does not contain the whole truth relative to the invention and construction of said Machine in this to wit: that the Machines used by the said Amos Whittemore & William Whittemore Jr. at West-ford Bridge, under the pretence that they are the same Machines for which said Patent was obtained, are complete & sufficient for the purposes for which they are used; but that the said specification or description is throughout confused, incomplete & unintelligible, & it does not explain from said specification or description to construct a Machine proper for the purpose of making Cotton or wool cards.

Secondly the said Machine used by the said Plaintiffs at said West-

-Cards it was not originally invented by said Amos Whittemore, but was invented by Messrs Elezer Smith, Samuel Cox, Giles Richards, - John McClench, Gorham Cutler, Abel Sherman, Samuel Cowdon, Ezekiel Cutler & by divers other persons, & was combined, from their inventions, by said Amos Whittemore, who added, at most, very few parts of his own. And the said Patent, granted to said Amos Whittemore obtained surreptitiously or upon false suggestion that he was the inventor of the Machine.

Thirdly the said Patent is void, & void in as much as said Amos Whittemore swore, in the obtaining thereof, not that he was the inventor either of the whole machine or of particular improvements to which he confined his claim; but in plain terms he swore that he believed himself "the inventor or improver of the Machine" which oath is not according to the form of the statute of the United States.

Thos Jackson & Eben. Blanchard

Attys of Wm T. Cutler.

Boston June 21. 1810

United States of America
District of Massachusetts ss.

By the direction of the Attorney to Wm T. Cutler I have personally delivered to Samuel Dexter Esq. Attorney to the defendents within named a true and attested copy of the aforegoing plea 26 June 1810

Fees. Thos Jackson 1 copy 33 — $2.50 Attest Wm T. Cutler

Caleb Eddy having engaged with the Newport Manufacturing Company, to keep their Machines in repair & to stick all their Cards at a stipulated price for one year which gave him a nett profit of nearly or quite three hundred per month, could not be prevailed on to leave his business without a promise, on our part, to make good to him the damage, he sustained by leaving it. which he said (including his expences &c, (both terms) Two hundred dollars, which I considered not unreasonable & paid him that sum as per his receipt dated 15th Dec. 1814 — I went to Exeter New Hampshire, on purpose to summon & engage Jona Hale Esq. to attend Court, which he did June 1812. Expences $20 — I sent a man from Haverhill New Hampshire to summon him again to attend at the last trial —

Boston June 12th 1815 — Wm Whittemore Jr

N.B. Acct for copying drafts & patterns, are exhibited

Amos Whittemore & Wm. Whittemore Jr. of West Cambridge in the County of Middlesex & Dist. of Massts, Cardmakers, Copts, vs. Wm. F. Cutter of Charlestown in s.d County of Middlesex in s.d Dist. of Massts, Cardmaker, Defdt. in a plea of Trespass on the case for that whereas &c. (See Declr so far as "Dollars") (Then Copy Notice of Special matter. as far as signatures of Zachariah Richardson) —

This Action was commenced at the June Term of this Ct. AD. 1810, & from thence ~~the Writ was~~ continued to the Oct. T. 1810 & from thence it was cont.d to the Oct. T. 1811 ~~& from thence was cont.d~~ on motion of the Plff & the Oct. T. 1810 & from thence it was cont.d from Term to Term & by consent of parties unto the May Term AD. 1813. when the plff had leave to amend his a new declr. And then the s.d Wm. F. Cutter by his Atty John Pitman Jr. came & defended &c. (See Plea) Issue being thus joined, the cause after a full hearing was committed to a Jury sworn accordg to law to try the same, who after hearing all matters & things concerning the same returned their Verdict therein upon oath, that is to say. The Jury find &c. (See Verdict A but not signature). Upon motion of the Defdt this Verdict was set aside & a new trial ordered by the Court & from s.d May Term the cause was contd to the Oct. T. AD. 1813, when the cause, after a full hearing was again committed to a Jury sworn accordg to law & to try the same, who after hearing all matters & things concerning the same, returned their Verdict therein upon oath, that is to say, "The Jury find &c. (See Verdict B. but not signature) From s.d Oct. Term, upon the Defendts motion for a new trial, the cause was cont.d from Term to Term unto this present Term. And now the motion for a new trial is set aside & the plff remitting all damages over $10. it is thereupon considered by the Court that the s.d Amos Whittemore & Wm. Whitt[illegible] the plff recover against

rec.d of Wm. F. Cutler The Defdt. Triple Damages
~~Costs~~ amounts to $60 & ~~Costs~~ of suit taxed
at $3.19.30

Exd. innes
27. Oct. 1815

Mt Attorney Gal
vs
Cutler

District } Massachusetts ss.

Circuit Court of the United States
for the said District

Amos Whittemore & William Whittemore Jun vs.
William F Cutter

And the said William F Cutter comes and
defends the wrong and injury when &c. and says
that he is not guilty &c the premises in manner and
form as the Pltfs have alleged against him &
&c this he puts himself upon the Country &c.

And the Plaintiffs likewise
by their atty

by John Putnam Jun.
his Atty

De Lex & Prescott

Ala

Amos Whittemore &

William Whittemore, Jun.

vs.

William C. Butler

Amos Whitteman et al
vs.
William T. Carter —

Points ~~raised by Defts~~ in arrest of judgement.

1. That William Whitteman Junr assignee of one half the patent cannot join in this action.

2. That the making the machine as alleged in the declaration and found by the Jury is not an offence under the Statute.

Points for a new trial

1. No action ~~can be~~ of the case could be sustained without actual damage sustained by the Plffs. before action brought

2. Jury cannot give damages where the ~~party~~ Plffs. have not proved ~~that~~ they have sustained actual damages, for the purpose of remunerating ~~the~~ them for expences incurred in vindicating their right or to enable them to support their action.

3. Jury cannot give damages to cover Costs

4 The patent is for an entire machine and not for an improvt upon a machine and is broader than the invention

5. It must specifically appear by the patent for what it is granted and it cannot be explained by witnesses

6 That the Plffs cannot recover if the specification is not such as is required by the 3d Sec. of the Act of 1793

7. That the oath is material and if it appear on trial that the ~~inventor did~~ patentee did not swear that he was the inventor of the thing patented he cannot recover

8. [illegible]

2. That the verdict is contrary to evidence

3. That new and important testimony has been dis-
- covered

District of Massachusetts ss:

Circuit Court of the United States,
October Term A 1813.

Amos Whittemore & William Whittemore Jun. vs.
William F. Cutler

And now the said William F Cutler after verdict and before judgment rendered thereon against him in this cause comes and moves the Court now here that the said verdict may be set aside and a new trial granted because the said verdict is against law and evidence and contrary to the express direction of the Court to the Jury upon a point of law in this cause that the said verdict finds the Defendant guilty of making the machine mentioned in the Plaintiffs Declaration and not guilty of the devising and using the same and upon which principle assesses damages in the sum of three hundred and fifty dollars whereas according to law and the evidence and the direction of the Court the Jury should have found a verdict for nominal damages.

John Delman Jun.
Atty for Defts

Whiteman et al
vs.
Carter

Motion for New Trial

Filed in Court this
27 Oct 1913 ½ past
one O clock P M

In the action of Anna Whitemore et al vs

William F. Cutler

The Jury find the Defendant guilty of making the patented machine for manufacturing cards mentioned in the plaintiffs declaration contrary to the form of the statutes in manner & form as set forth in ~~the plaintiffs writ~~ said declaration & assess single damages in the sum of four hundred dollars, and not guilty of ~~using the invention~~ the infringement of the ~~wrong~~ charged in the declaration.

Affirmed this 20 May 1813 Samuel Gibbon Foreman

Vendu

A

The Jury are of opinion that the Defendant is Guilty of Making a Machine as set forth in the declaration and do assess the damages at four hundred dollars

Samuel Gibbon Foreman

Boston May 19th 1813

Whittemore & Cutler

Treat &c

Miscellaneous papers —

United States of America }
District of Massachusetts } ss.

Circuit Court of the United States
in and for the said District
May Term A.D. 1813.

Amos Whittemore and William Whittemore Jun. vs.
William J. Cutter

Now now the said William J. Cutter after verdict and before judgment rendered thereon against him in this cause comes and moves the Court now here that judgment in this cause may be arrested and that no judgment may be rendered upon the said verdict for the Pltfs for the reasons and causes following to wit:

1. That the said William Whittemore Jun. as the Assignee of the said Amos Whittemore as in the Pltfs writ and declaration is alleged cannot as co. plaintiff, according to law, maintain this action against the Deft.

2. That the Pltfs have not in their writ or declaration alleged that the patent mentions therein was assigned to the said Wm Whittemore Jun. according to law.

3. That the assignment mentioned & alleged in the Pltfs declaration of the patent therein mentioned or one half thereof is not an assignment according to the Statute in such case made and provided,

4. That the verdict rendered in this cause does not find the Deft guilty of the making devising and using the machine in the Pltfs writ and declaration mentioned as is therein alleged against him.

5. That the alleged offence or wrong and injury with which the Defendant is charged by the Pltfs in their writ and declaration to which the Deft plead not guilty and upon which plea issue was joined is not by the verdict found to be true or to have been committed.

6. That the making the machine set forth in the Pltfs declaration is not an offence according to the intent and meaning of the Statutes upon which this action is founded.

By John Pitman Jun. his Attorney

Motion in Arrest
& Judgment

filed in Court this
22 May one Oclock
de bene esse W S Shaw
Clk

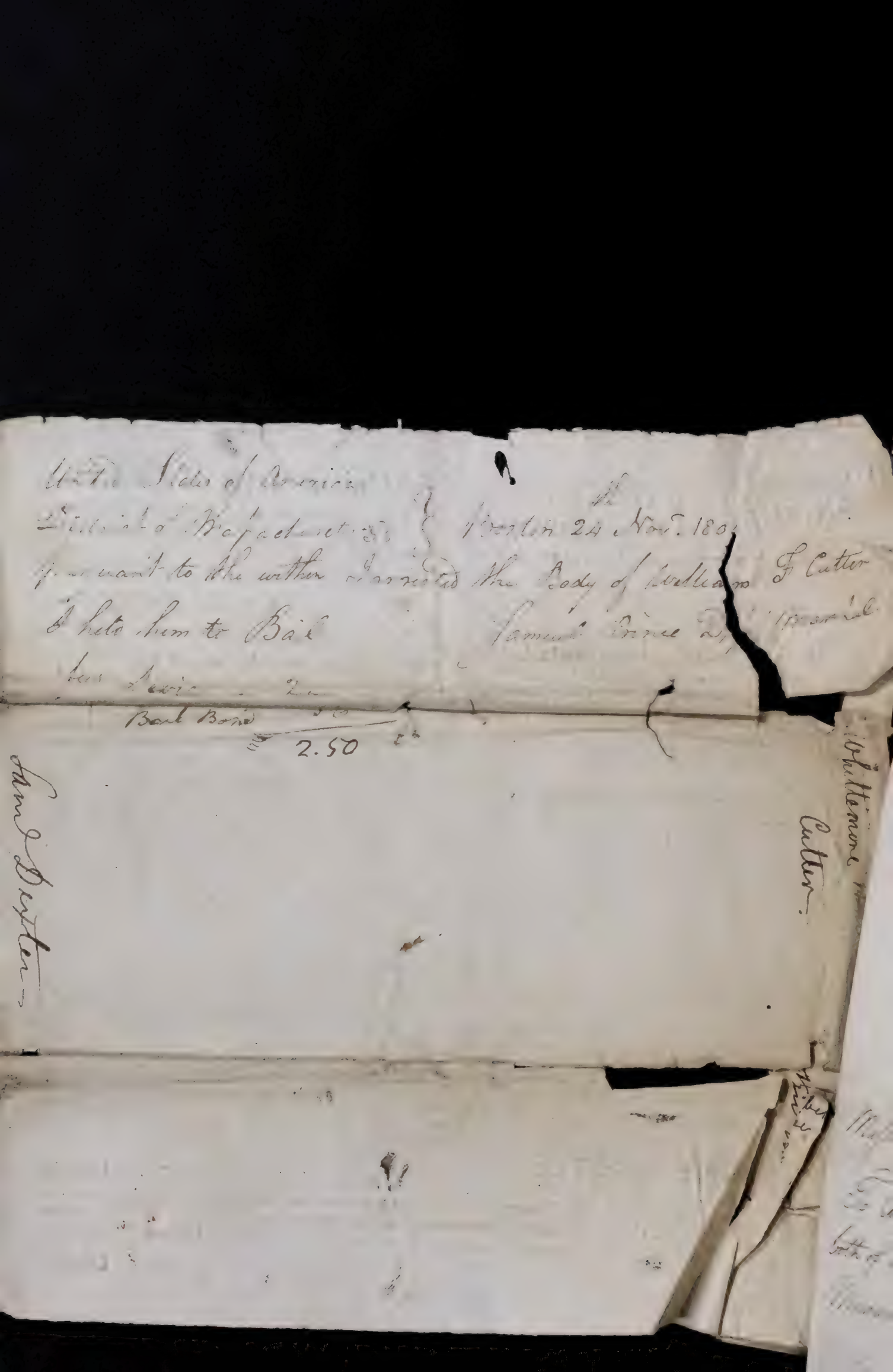
That whereas by certain Letters Patent duly issued in the name of the United States of America by the Secretary of State, bearing test by the President of the United States & executed in due form of law, & dated the fifth day of June in the Year of our Lord one thousand seven hundred & ninety seven, & here in Court produced was granted to said Amos Whittemore his heirs, administrators or assigns for the space of fourteen years from said date the full & exclusive right & liberty of making, constructing, using, & vending to others to be used his said improvement in manufacturing cards, being a machine for manufacturing steel cards suitable for wool or cotton hatters cards, & their parts, & cards of every kind agreeable to a statute of the Congress of the United States made & passed the twenty first day of February in the Year of our Lord one thousand seven hundred & ninety three entitled "An act to promote the progress of useful arts & to repeal the Act heretofore made for that purpose." And whereas by a certain deed of assignment of the said Amos Whittemore under his hand & seal & executed in due form of law, dated the fifth day of July in the year of our Lord one thousand seven hundred & ninety seven, & there in Court proved, the said Amos for a valuable consideration therein expressed, did thereby bargain, sell & assign unto the said William Whittemore Junior by the name & style of William Whittemore, his heirs executors, administrators & assigns one half part or moiety of said Improvement or machine & Patent right as therein expressed - he hereby the

& only signed in the office of the Secretary of State;

the said William became joint owner & proprietor with the said Amos of the said Improvement & Patent right thereof. And whereas the Congress of the United States by an Act made & passed an act dated the third day of March in the year of our Lord one thousand eight hundred & nine, entitled "An act to extend to Amos Whittemore & William Whittemore junior the Patent right to a machine for manufacturing Cotton & Wool cards" which act is in the following words, viz. "Be it enacted by the Senate & house of representatives of the United States of America in Congress assembled, That all the privileges & benefits granted to Amos Whittemore of the State of Massachusetts, in consideration of a machine invented by him for the manufacture of Cotton & Wool Cards within the United States by a Patent issued from the Department of State, & bearing date the fifth day of June, one thousand seven hundred & ninety seven, be & the same are hereby extended to Amos Whittemore & William Whittemore junior as joint proprietors of said machine for & during the term of fourteen years to commence on the fifth day of June in the year of our Lord one thousand eight hundred & eleven; any thing in the act, intitled an "Act to promote the progress of useful arts & to repeal the act heretofore made for that purpose," to the contrary notwithstanding." And whereas it

whereby all the privileges & benefits granted to Amos Whittemore aforesaid in consideration of the same machine invented by him for manufacturing cotton & wool cards within the United States, by the Patent aforesaid, were extended to said Amos Whittemore & William Whittemore junr. who are the same persons named in said act as joint proprietors of said machine as aforesaid for & during the further term of fourteen years on the fifth day of June aforesaid eight & eleven as aforesaid

And whereas
by an other act of the Congress of the United States made
& passed the the seventeenth day of April one thousand
eight hundred & entitled an "Act to extend the
priviledge of obtaining patents for useful discoveries
& inventions to certain persons therein mentioned
& to enlarge & define the penalties for violating the
rights of patentees, it is enacted, that where any
patent shall be, or shall have been granted pursuant
to this or the abovementioned act, & any person
without the consent of the patentee, his or her
executors, administrators or assigns first obtained
in writing, shall make, devise, use or sell the
thing whereof the exclusive right is secured
to the said patentee by such patent, such person
so offending, shall forfeit & pay to the said
patentee, his executors, administrators or assigns
a sum equal to three times the actual damage
sustained by such patentee, his executors, adminis-
trators or assigns, with costs, & may be recovered by action on
the case, founded on this, & the first above mentioned
act in the Circuit Court of the United States
having jurisdiction thereof. Now the said Amos &
William in fact say, that the said William Lattin
in no wise ignorant of the premises, but contriving
& intending to injure them the said Amos &
William & deprive them of the benefit of the
said patent, ~~the extension of it for an additional~~ on
the ~~twenty fifth~~ twentieth day of November eighteen hundred
& nine & on divers days previous to that time,
without the consent of the said Amos & William or
either of them, or their assigns first had & obtained



To the Hon. John Davis Dist. judge of the District Court for the District of Massachusetts

Humbly shews.

William F. Cutler of Charlestown within the said District. that he is now confined within the limits of the Gaol within and for the County of Suffolk in said District. by virtue of an Execution which issued upon a judgment recovered and rendered by the Circuit Court of the United States within and for said District in favour of Amos Whittemore and William Whittemore jun. both of West Cambridge within said District of Massachusetts - cardmakers. And the said Cutler further shews. that said judgment was rendered in a civil action and that he is unable to pay the said judgment and that he has not estate real or personal to any more or greater amount than thirty dollars other than his necessary wearing apparel.

W. F. Cutler

Mass. Dist. ss. — August 8. 1816.

To Amos Whittemore and William Whittemore jr. both of West Cambridge within said District of Massachusetts, Cardmakers.

You are hereby notified to appear before me on Monday the ninth day of September next, at

the United States Court Room, on Court Street, Bost.
on at eleven O. Clock A. M. then and there to show
cause, if any you have, why the oath or affirmation
provided & prescribed in the Act of Congress entitled
"An Act for the relief of persons imprisoned for debt,"
should not be administered to William F. Cutter
above named according to his application. Witness
my hand and seal the day and year aforesaid.

Jn Davis
Dist Judge U.S.
Mass. Distrct

United States of America
District of Massachusetts ss } Boston August 8th 1810

Pursuant to the foregoing I have notified Thomas Whittemore & William
Whittemore June To appear at the time, place, & for the purposes na
med by Reading the same in each of their hearing

Jam Prince Dept Marshal
Mass Dist

The Jury find the defendant guilty of making the machine of which the plaintiffs are patentees to the damage of said plaintiffs three hundred and fifty Dollars. ——— Samuel Ropes
Foreman

B

Whitcomb vs Cutler

The Jury find the Defendant guilty of making the machine described in the plaintiffs ~~bill~~ declaration in manner & form therein alleged and assess the single damages they have sustained by reason thereof at the sum of three hundred & fifty dollars, and that he is not guilty of the residue of the matters therein alleged against him

Sam[l] Ropes
Foreman

Verdict

B

Circuit Court of the United States
setting at Boston, October Term 1812

In the case Wm Whittemore Jr & Ano vs
Whittemore vs Wm S. Cutler, it is agreed that the action
be continued, without cost to either party.

Wm Whittemore Jun
for Self & Anor Whittemore

Wm S. Cutler
by his Att'y
& S. & P. T. Dexter

To Thomas Denny ~~Esqr~~ of Leicester County of Worcester State of Massachusetts in an action of Plea of Trespass on the Case &c. Jonathan Hicks of Rowley in the County of Rockingham & State of New Hampshire ~~Esquire~~ ~~Gentleman~~ John Welch of Amesbury County of Essex ~~Essex~~, **Greeting.**

YOU are hereby required, in the name of the PRESIDENT OF THE UNITED STATES, to make your appearance before the Judges of our Circuit Court, to be holden at Boston within and for the District of Massachusetts, on the first day of June next to give evidence of what you know relating to an action or plea of Trespass on the Case Nuttemore and Wm Nuttemore Jar vs William T. Clarke then and there to be heard and tried betwixt I may

Hereof fail not, as you will answer your default under the pains and penalty in the law in that behalf made and provided. Dated at Boston the twenty seventh day of May, in the year of our Lord 1810

Wm T Shaw CLERK.

June Term 1810

I hereby Acknowledge that the within Summons has been duly Served and that I have received the money for My travel and one days Attendance

50 miles out
50 20 in
100 travel

Jon.a Hale

I hereby acknowledge that the within Summons has been duly served and that I have received the money for my travil and one days attendance — tra-vel from Amesbury thirty eight miles

John Wincle

35
76 miles out & in

John Wincle

Boston 26 Octr. 1811

It is agreed that the action of Amos Whittemore & Wm. Whittemore Jr. vs. Wm. T. — Cutter be continued upon the same terms as it was last term of the Circuit Court of the US, for Mass.a District

Wm. T. Cutter
by his Attor.
P. P. F. Degrand

Wm Whittemore Jun

Boston 2 May 1812

It is agreed that the action of Wm Whittemore Jr & (Amos Whittemore) vs Wm F. Cutter now pending before the Circuit Court be continued from May Term to the next term, without cost to either party

Wm Whittemore Jr

P. P. F. Degrand for

Wm F. Cutter

Whittemore
Scatter —

Coventry

To Jonathan Hall Esqr of ~~Exeter~~ in the County of ~~Rockingham~~ Grafton State of New Hampshire **Greeting.**

YOU are hereby required, in the name of the PRESIDENT OF THE UNITED STATES, to make your appearance before the Judge of our circuit Court, to be holden at Boston within and for the District of Massachusetts, on the ~~fifteenth~~ day of May current to give evidence of what you know relating to an Action or Plea of Trespass in case then and there to be heard and tried betwixt Anna Whittemore & Wm Whittemore Junr Plaintiffs & Wm F Cutter defendant

Hereof fail not, as you will answer your Default under the Pains and Penalty in the Law in that behalf made and provided. Dated at Boston the Sixth day of May , in the year of our Lord 1813

Wm S Shaw CLERK.

This day A. C. Webster read to me a letter from Thos. Sale requesting me to attend the Circuit Court of the United States now in session in Boston, and offering me my fees. But on account of ill health and other reasons I am not able to attend the Court. I attended Court three years since for the purpose of testifying in the same case all I know relating to the subject is that one Eliazer Smith worked for me a number of years ago on a Machine for Executing the Carding business although he wrought on the Machine nearly one year he never obtained the Object. afterwards Whitemore accomplished the business on different Principles and I understand obtained a patent Right

Jam.a Hale

Coventry 17.th May 1813

L.S.

To Moses Whiting of Boston Gentleman

Greeting.

YOU are hereby required, in the name of the PRESIDENT OF THE UNITED STATES, to make your appearance before the Judge of our Circuit Court, to be holden at Boston within and for the District of Massachusetts, on the twentieth day of October A D instant to give evidence of what you know relating to an action or plea of Trespass on the Case then and there to be heard and tried betwixt Amos Whittemore Jun.l against William F Cutler

Hereof fail not, as you will answer your default under the pains and penalty in the law in that behalf made and provided. Dated at Boston the Second day of October, in the year of our Lord 1810

Wm F Shaw CLERK.

A True Copy attest Jam Prince Deputy Marshal

39

I certify that I attended court two days & travelled from Dedham, Eleven miles, to attend the court for the purpose

Written
8 and
3 in
16 miles

Moses Whiting

To Caleb Cole of the City & State of New York Carpenter
Moses Whiting of Boston
& John Dingley of Boston

Greeting.

YOU are hereby required, in the name of the PRESIDENT OF THE UNITED STATES, to make your appearance before the Judges of our Circuit Court, to be holden at Boston within and for the District of Massachusetts, on the fifteenth day of October ~~instant~~ instant to give evidence of what you know relating to an Action or Plea of trespass on the case then and there to be heard and tried betwixt Amos Whittemore & Wm Whittemore Jr Plaintiffs. against William F Cutler Defendt

Hereof fail not, as you will answer your default under the Pains and Penalty in the Law in that behalf made and provided. Dated at Boston the Seventh day of October, in the year of our Lord 1813

Wm S Shaw CLERK.

I certify I have attended Court seven days & travelled from New York on purpose to testify in this cause and thence five hundred miles

Caleb Cole

I certify I have attended four days

Moses Keating

I certify I have attended three days

John Dwight

I certify I attended two days

R Keating

Oct 1813

To Caleb Cole of the City of New York and State of New York -

Greeting.

YOU are hereby required, in the name of the PRESIDENT OF THE UNITED STATES, to make your appearance before the Judge of our circuit Court, to be holden at Boston within and for the District of Massachusetts, on the fifteenth day of May current - to give evidence of what you know relating to an Action or Plea of Trespass in the Case then and there to be heard and tried betwixt Amas Whittemore and Wm Whittemore 2nd. Plaintiffs. & William F Cutter defendant

Here

of fail not, as you will answer your Default under the Pains and Penalty in the Law at behalf made and provided. Dated at Boston the sixth of May , in the year of our Lord 1813 -

Wm P. Shaw CLERK.

Newyork acknowledge to
have been duly summoned &
to have paid Twenty dollars
for travel from Newyork and
one days attendance

~~Caleb Cole~~

I certify that I have attended Court
four days & travelled from the City of
Newyork Two hundred fifty miles to
attend court in the case for that
purpose & two hundred fifty miles back again
to Newyork Caleb Cole

To Samuel Cutler & Samuel Cutler junr
of Boston, Caleb Cole of New York. Greeting.

YOU are hereby required, in the name of the PRESIDENT OF THE UNITED STATES, to make your appearance before the Judge of our Circuit Court, to be holden at Boston within and for the District of Massachusetts, on the fifteenth day of October 1813 to give evidence of what you know relating to an Action or Plea of trespass on the Case

Amos & William Whittemore then and there to be heard and tried betwixt

&

William F. Cutler

Hereof fail not, as you will answer your default under the Pains and Penalty in the Law in that behalf made and provided. Dated at Boston the fifteenth day of October, in the year of our Lord 1813

Wm S Shaw CLERK.

Suffolk ss Boston May 14th 1813

I have summoned the within named
Moses Whiting to appear at the time
and place within mentioned by reading
to him this summons in his presence
I also paid him $1.75 for his
Attendance I also summoned the
within named Sabine Eastman to appear
at the time and place within mentioned
by reading to him this summons
in his presence & also paid him
him $1.62½ for him to Attend

Bradish Billings
D Sheriff

Suffolk ss Boston May 17th 1813 I have
summoned the within named
Rueph Whiting to appear as within
Commanded by reading to him
this summons & paid him
$1.50 cts

1.50
4.37
4.87

I certify I attended Court One Day

To [illegible] Greeting.

YOU are required, in the name of the PRESIDENT OF THE UNITED STATES, to make your appearance before the Judges of our Supreme Court, to be holden at Boston within and for the District of Massachusetts, on the fifteenth day of June 1813 to give evidence of what you know relating to an Action of Trespass on the case then and there to be heard and tried betwixt

Amos Whitmore Jr. Plff

William Watts Defd

Hereof fail not will answer your default under the Pains and Penalty in the Law in that behalf provided. Dated at Boston the thirteenth day of May, in the year of our Lord 1813

Wm S Shaw CLERK.

I certify that I have attended Court five days for the purposes mentioned in the annexed Summons — Silas Whiting — 5

I certify that I have attended Court two days for the purposes expressed in the annexed Summons & travelled six miles — Amos Whitmore Jr. 2

I certify that I have attended Court three days for the purposes expressed in the annexed Summons — Michael Morrison — 3

I certify that I attended one day for the within named witness — Geo. Bowers 1

I certify that I attended Court three days & travelled four miles to attend Court for the purposes expressed in the annexed Summons — 4

I certify that I have attended Court two days for the purposes expressed in the annexed Summons — & travelled two miles. Jonas Brown Jr. — 2

I have attended four days on this summons and travelled ten miles Joshua Avery 4

Liberal Eastman

Mr Charles Slade

to Nich.s King.

1810

June 8.th To Copying one respective and 12 sections

Drawings of Amos Whittemores Improved Do Cash

machine for making Sheet Cards 17.00

Rec.d the above in full

for Mr. Nich.s King

Geo. Lyon

Joseph

To George Holden

To [illegible] Whiting of Boston, mariner, Greeting.

YOU are required, in the name of the PRESIDENT OF THE UNITED STATES, to make your appearance before the Judges of our Circuit Court, to be holden at Boston within and for the District of Massachusetts, on the fifteenth day of June 1813 to give evidence of what you know relating to an Action of trespass on the case then and there to be heard and tried betwixt

Amos Whittemore Jr. Plff

William Holden Defd

Hereof fail not will answer your default under the Pains and Penalty in the Law in that behalf provided. Dated at Boston the thirteenth day of May, in the year of our Lord 1813

Wm S Shaw CLERK.

I certify that I have attended court five days for the purposes mentioned in the annexed summons — Myles Whiting — 5

I certify that I have attended court two days for the purposes expressed in the annexed summons & travelled fifty miles — Amos Whittemore Jr. 2

I certify that I have attended court three days for the purposes expressed in the annexed summons — Michael Morrison — 3

I certify that I attended one day for the within named witness Geo Bdowne 1

I certify that I attended court three days & travelled four miles to attend court for the purposes expressed in the annexed summons — 3

I certify that I have attended court two days for the purposes expressed in the annexed summons — & travelled 2 hundred miles. Joshua Avery 2

I have attended four days on this summons and travelled ten miles Lidiana Eastman 4

Suffolk ss Boston May 14th 1813

I have summoned the within named Moses Whiting to appear at the time and place within mentioned by reading to him this summons in his presence I also paid him $1.75 for his attendance I also summoned the within named Zebina Eastman to appear at the time and place within mentioned by reading to him this summons in his presence & also paid him him $1.62½ for him to attend

Braddish Billings
D Sheriff

I certify I attended Court one day

1.75
1.62½
3.37

4.87
3.37
1.50

Suffolk ss Boston May 14th 1813

Then summoned the within named Royals Whiting to appear as within mentioned by reading this summons in his presence

$1.50 cts

1.50
4.37
4.87

Mr. Charles Slade

to Nich.s King.

1810

June 6.th To Copying one respective and 12 sections

Drawings of Amos Whitmores Improved Do Cards

machine for making Sheet Canas. 17.00

Rec.d the above in full

for Mr.s Nich.s King

Geo Lyon

Nicholas King
author of Copying Press
Patent Machine
June 1810

Mr. Slade

To Geo. Lyon Dr

May 28th 1810

To copying Specifn Notes of Reference &c. of Amos Whittemores improved Machine for making Sheet Cards - - - - - - - - - - - - - - - $6.00

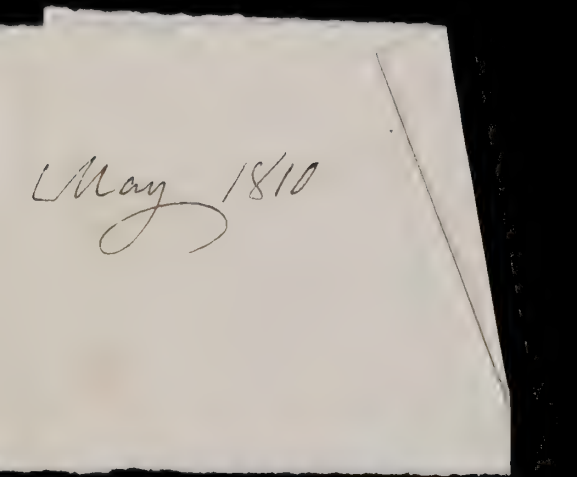
Seals to Certificates - - - - - .50

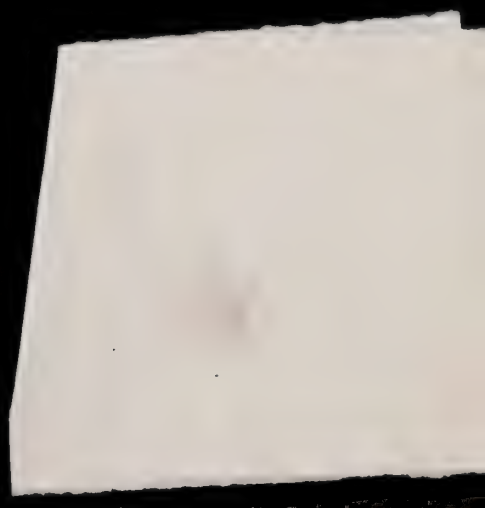
$6.50

Recd the above in full

Geo. Lyon

George Lyons bill
for Copying Specifi-
cations - May 1810


May 1810



Bill of costs. Whittemore Ind. vs. Cutter. J. K. Williams exceptions to it.

No. 1. Items from 1810 2 witnesses travel & attendance. My objection to these items is that there is no certificate that the witnesses did come or attend. And because the action was continued at the pltf's motion.

Nos 2. 3. 4. 5. The items of costs of June Term 1811 of October Term 1811. May Term 1812. and October Term 1812 are all objected to because the action was continued at those Term by agreement of the parties.

No. 6. May Term 1813. The items of $57.50 as also $4.50 as also $32.20 as also $25. as also $2.50 are objected to. 1st $57.50 for witnesses attendance is too much as there was not so many days of their attendance as 46. 2d a part of their attendance fee was paid them and is included in the $4.87 which is also my objection to the item of $4.87. 3d The $32.20 is more than the travel anticipated amounts to. 4th The $25. is objected to in toto, there being nothing in the case which gives a pretence to warrant it. 5th The $2.50 is objected to because ~~there~~ an attorneys fee is to be allowed but one in any cause ~~has already been allowed~~. The attorneys fee is not on the issue, on the trial.

No. 7. October Term 1813. The attendance and travel of witnesses more days and miles than is certified as will appear by an examination of the certificate. which is my objection to these items.

J. K. Williams
Attg to Cutter.

Aug. 5. 1815

160.37
150..93
8319=30

77
137
190

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5 50
10-90
5-
23.90
1 33
25::29

4

4 0/00

4

4 Шт

4 0/00

23 0/00

49

4 Шт

1

To George Adorne of Boston, Ebenezer Adorne of Malden,
Moses Whiting of Boston, Thomas Curtis of Charleston,

To Ruggles Whiting of Boston, Amos Whittemore Jr
of Wobe Cambridge, Joshua Avery of Cambridge
Mishad Morrison of Boston
Samuel Cutler, & Samuel Cutler Jr of Boston **Greeting.**

YOU are hereby required, in the name of the PRESIDENT OF THE UNITED STATES, to make your appearance before the Judge of our Circuit Court, to be holden at Boston within and for the District of Massachusetts, on the fifteenth day of October 1813 to give evidence of what you know relating to an Action or Plea of trespass on the case

then and there to be heard and tried betwixt

Amos & Thomas Whittemore Pltffs
&
Samuel & Cutler Deft

Hereof fail not, as you will answer your default under the Pains and Penalty in the Law in that behalf made and provided. Dated at Boston the 14th day of October, in the year of our Lord 1813

Wm S Shaw CLERK.

I certify I have attended court 7 days & travelled
miles to & from Court
M Morrison

I certify I have attended court three days, & travelled twenty miles

I certify I have attended court three days & Joshua Avery
Travelled twenty miles
Amos Whittemore Jr.

I certify that I have attended court five days
& his
Sam. ✕ Cutler
mark

I certify that I attended court at the time & place above
& for the purposes named. three days Geo Odorne

I certify that I attended court for the purposes mentioned
in the foregoing Summons, five days Samuel Cutler Jr.

6
7

Suffolk ss Boston Octo 16. 1813 I have summoned
the within named Moses & Bayles Whiting to ap
pear as within directed by reading the same to them
in their presence & hearing. I also paid each one dollar
twenty five cents in hands
W Dennison Const
Service $1.25

I have attended five days and travelled
ten miles on this Summons. Pelina Eastman

Summons —
Subpoena Oct. 1813

Caleb Coles acct
Settled 15th Decr 1814

Dr

Mr William Whittemore in account

1806	To two Shares in the Aqueduct one of which was conveyed to W Cutting the other to be conveyed to him	120	–
	To Interest on Do to Nov 1814	57	60
1813 Augt 6	To Cash paid him by Mrs Chadwick for 1 quarters Rent of my house	30	–
Nov – 2	" Cash paid by Do — Do —	30	–
Feby 7	" Cash pd — " Do — Do —	30	–
April 26	" Cash pd him by E Whittemore for goods at auction		50
May – 10	" Cash pd him by Mrs Chadwick for rent	30	–
Augt 10	" Cash pd him by — Do — Do —	27	50
Sept – 24	" Cash pd him by Cutter & Whittemore for Note sent by my Son Freeman for him to Collect Not Collected —	55	–
	To my Time, travel and attendance at the Circuit Court of the United States in the Case of Amos Whittemore and Wm Whittemore Junr vs Wm F Cutter 2 cases	200	–
	To Cash for my part Repairing Stove in the Court House	5	–
	To making & Setting Scrapers in Whittemores House	4	–
Novr – 21	" Cash said him by Mrs Chadwick for 1 quarters rent ending 1st Nov 1814	27	50
		$ 617	50

New York 15 Decr 1814

Errors Excepted

ount with Caleb Cole Cr

	1813			
	Augt 6	By Cash he paid Fredk Manson for Blinds per his acct	$	4 50
60	Sept 5	By Cash Recd of him at New York		20 —
		" 96 feet Merch Boards — @ 2 25		1 32
—		" 41 lbs White Lead — @ 25 t.		10 25
—		" 2 Gallons boiled Oil — 1.25		2 50
—		" Prussian Blue & Verdegrise —		" 50
90		" 10½ lbs Flour —		" 67
—		" Cash he paid Moses Grant & Co bake		16 58
50		" Cash paid Wm Hill 3 d for papering my house —		17 94
	1814			
	March 21	" Cash C Whittemore acct of Work on house		8 62
—	Octr 3	" Cash recd of J Whittemore for Rent		171 87
		" Do — paid U.S. Tax		1 69
	Novr 6	" Do Recd of him at New York for rent		140 —
	25	" My note dated Octr 6th 1806. given up		30 —
—		" Interest on Do 8 yrs & 1 mo.		12 95
		My note dated Augt 25th 1807 given up		40 —
		Interest on Do 7 yrs & 3 mo		17 40
—		1 load manure delivd May 1809		1 50
—		By his check on the Bank of		504 29
50		New York to Ballance		113 21
50				617 50

r. 1814
ted

Caleb Cole

United States
Mass. District

Circuit Court at Boston
October Term 1813

Lucas Whittemore and al Plaintiffs Petitioners.
William F. Curtis Def-
Plaintiffs cost viz

Writ	2	15
Service	2	50
Entering &c	5	
Attendance June 1810. 11 days	3	63
1 Witness attendance 2 days	2	50
travel & ferriages 176 miles	8	80
Subpoena		56
Continuance		56
October 1810 attendance 7 days	2	31
1 Witness attendance 2 days	2	50
travel & ferriages 16 miles		80
Subpoena		56
Service of subpoena		
Continuance		56
June 1811 attendance 2 days	0	88
Continuance		56
November 1811 attendance 11 days	4	63
Continuance		56
May 1812 attendance 2 days	0	88
Continuance		56
[illegible] attendance 2 days	0	81
Continuance		56
May 1813 attendance 22 days	7	26
9 witnesses attendance 46 days (trial)	5	50
Service, subpoenas $1.50	4	27
travel of 9 witnesses 644 miles	32	20
3 subpoenas		68
Copies of drawings &c from Patent office	25	
[illegible]	11	11
Jurisdiction, recording &c	5	
Def. moves for new trial, delay granted		
Continuance		56
October Term 1813 attendance 14 days	4	62
12 Witnesses, attendance 68 days (new trial)	85	00
travel & ferriages 650 miles	32	50
2 subpoenas	1	12
service of subpoena	1	
All Gs fee at the new Trial	2	50

1814 May Term.	Attendance 29 days	9.	57
Oct. Term	Attendance 34 days	11	22
1815 May Term	Attendance 16 days	5	20

4 W

W

2-9-69

United States Mass Dist. Circuit Court May term 1915

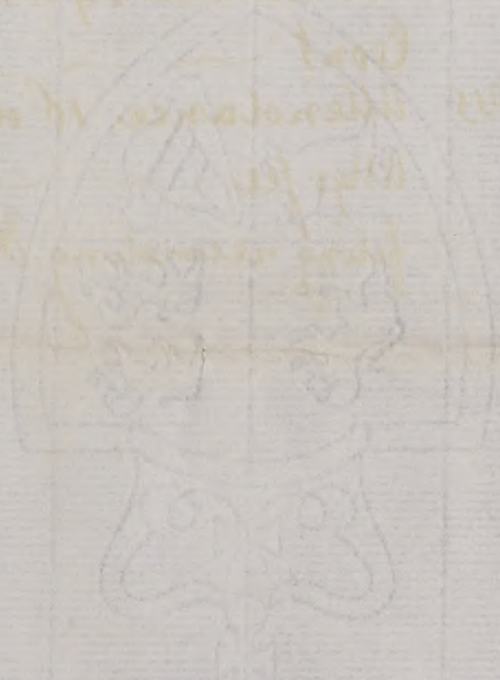
Amos Whittemore et al vs Wm J Cutter Dept.

Plaintiffs costs

June ~~Oct~~ Term 1910	Writ		2 - 15
	Service		2 . 50
	Entry		5 . 00
	Attendance 11 days		3 63
	Witness attend 2 days		2 - 50
	travel 176 miles		0 00
	Subpena		00 56
	Cont		00 - 56
Oct term 1910	attendance 7 days		2 - 31
	1 Witness Attend 2 days		2 .. 50
	travel 16 miles		00 .. 00
	Subpena		00 .. 55
	Service of Subpena		
	Cont		00 - 56
June term 1911	Con		56
Oct —	Con		56
May 1912	Con		56
Oct —	Con		56
May 1913	Attendance 22 days		7 .. 26
	9 Witnesses Attend 46 days		57 - 50
	Serving subpenas		1 - 50
	9 Witnesses travel		32 .. 20
	3 Subpenas		1 .. 60
	Copies of drawings		25 .. 00
	Continuance		00 .. 56
			160 37

Oct term 1013

	attendance 14 days — —	4 - 62
	11 Witnesses Attend 60 days	05 - 00
	travel 650 miles — —	32 . 50
	2 subpenas — — —	1 .. 12
	Service — — —	1 - 00
May term 1014	~~4660~~	
	attendance 29 day — —	9 57
	Cont — — — — —	00 56
Oct term 1014		
	Attendance 34 days —	11 - 22
	Cont — — — —	00 56
May term 1015	Attendance 16 days —	5 .. 20
	Attys fee — — — —	2 .. 50
	filing recording &c. — — —	5 .. 00
		319 30



Bill of cost

Whitmore v Cutter

Whittemore vs.
Cutter.